

MONTANA LEGISLATIVE HISTORY

Chapter 174 19 91

Bill H 197 S _____

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) Jan 24 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Jan 24 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Mar 12 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Mar 12 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 HOUSE BILL NO. 197
 2 INTRODUCED BY Wm E. Denny
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE
 5 PENALTY IMPOSED UPON INSURERS WHO UNREASONABLY DELAY PAYING
 6 WORKERS' COMPENSATION CLAIMS MAY BE IMPOSED WHEN AN INSURER
 7 ACCEPTS LIABILITY BUT UNREASONABLY DELAYS PAYING A CLAIM
 8 WHETHER OR NOT THE WORKERS' COMPENSATION COURT ORDERS
 9 PAYMENT OF THE CLAIM; APPLYING THE MONTANA SUPREME COURT'S
 10 DECISION IN HANDLOS V. CYPRUS, 47 ST. REP. 1329, 794 P.2D
 11 702 (1990); AMENDING SECTION 39-71-2907, MCA; AND PROVIDING
 12 AN APPLICABILITY DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 39-71-2907, MCA, is amended to read:

16 "39-71-2907. Increase in award for unreasonable delay
 17 or refusal to pay. (1) When payment of compensation has been
 18 unreasonably delayed or refused by an insurer, either The
 19 workers' compensation judge may increase the full amount of
 20 a claimant's compensation benefits by 20% when:

21 (a) the insurer agrees to pay compensation benefits but
 22 unreasonably delays or refuses to make the agreed-upon
 23 payments to the claimant; or

24 (b) prior or subsequent to the issuance of an order by
 25 the workers' compensation judge granting a claimant

1 compensation benefits, the full amount of the compensation
 2 ~~benefits due a claimant between the time compensation~~
 3 ~~benefits were delayed or refused and the date of the order~~
 4 ~~granting a claimant compensation benefits may be increased~~
 5 ~~by the workers' compensation judge by 20% insurer~~
 6 unreasonably delays or refuses to make the payments.

7 (2) The question of unreasonable delay or refusal shall
 8 be determined by the workers' compensation judge, and such a
 9 finding constitutes good cause to rescind, alter, or amend
 10 any order, decision, or award previously made in the cause
 11 for the purpose of making the increase provided herein.

12 (2)(3) A finding of unreasonableness under this section
 13 does not constitute a finding that the insurer acted in bad
 14 faith or violated the unfair trade practices provisions of
 15 Title 33, chapter 18."

16 NEW SECTION. **Section 2.** Applicability. [This act]
 17 applies to workers' compensation claims filed on or after
 18 October 1, 1991.

-End-

4/30 RETURNED TO HOUSE
 TRANSMITTED TO GOVERNOR FOR RECONSIDERATION
 5/24 VETOED
 (VETO OVERRIDE POLL CONDUCTED BY THE SECRETARY OF
 STATE AFTER THE SESSION; RESULTS AVAILABLE JULY 1, 1991)

HB 197 INTRODUCED BY BOHARSKI

CLARIFY PENALTY FOR UNREASONABLE DELAY IN
 PAYMENT OF WORKERS' COMPENSATION CLAIMS

1/15	INTRODUCED		
1/15	REFERRED TO JUDICIARY		
1/16	FIRST READING		
1/24	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	89	0
1/30	3RD READING PASSED	100	0

	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO BUSINESS & INDUSTRY		
3/12	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	49	0
3/14	3RD READING CONCURRED	47	1

3/21 RETURNED TO HOUSE
 3/21 SIGNED BY SPEAKER
 3/21 SIGNED BY PRESIDENT
 3/22 TRANSMITTED TO GOVERNOR
 3/26 SIGNED BY GOVERNOR
 CHAPTER NUMBER 174

EFFECTIVE DATE: 10/01/91

HB 198 INTRODUCED BY J. RICE

REDUCE TIME FOR FILING POSTCONVICTION RELIEF PETITION

1/15 INTRODUCED
 1/15 REFERRED TO JUDICIARY
 1/16 FIRST READING
 1/22 HEARING
 1/22 TABLED IN COMMITTEE

HB 199 INTRODUCED BY GILBERT, ET AL.

CHANGE THE NAME AND REALLOCATE PORTIONS
 OF THE RESOURCE INDEMNITY TRUST TAX

1/16 INTRODUCED
 1/16 REFERRED TO NATURAL RESOURCES
 1/16 FIRST READING
 1/16 FISCAL NOTE REQUESTED
 1/21 FISCAL NOTE RECEIVED
 1/21 FISCAL NOTE PRINTED
 1/25 HEARING
 1/28 REVISED FISCAL NOTE REQUESTED
 1/30 REVISED FISCAL NOTE RECEIVED
 2/01 REVISED FISCAL NOTE PRINTED
 3/12 TABLED IN COMMITTEE

HB 200 INTRODUCED BY COHEN

LOCAL OPTION ACCOMMODATIONS TAX

1/16 INTRODUCED
 1/16 REFERRED TO TAXATION
 1/16 FIRST READING
 1/23 HEARING
 3/27 TABLED IN COMMITTEE

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 24, 1991,
at 8:10 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Diana Wyatt (D)

Members Excused: Rep. Brown, Rep. Whalen

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB #211 **AMENDING THE SEXUAL INTERCOURSE WITHOUT CONSENT STATUTE**

Presentation and Opening Statement by Sponsor:

REP. BRADLEY, HOUSE DISTRICT 79, stated that the concept of this bill was brought to her by the County Attorney's Office in Gallatin County. It is to eliminate, under the rape statute six

Proponents' Testimony:

Peter Funk, Assistant Attorney General, Department of Justice, affirmed the Department's support of this bill. He stated that the fiscal note does have an effect on the Department of Justice. Mr. Funk said he would be glad to answer any questions regarding this issue.

Pat Bradley, Montana Magistrates Association, stated that the judges in courts of limited jurisdiction support this bill.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

HEARING ON HB #197
CLARIFY PENALTY FOR UNREASONABLE DELAY
IN PAYMENT OF WORKERS' COMP CLAIMS

Presentation and Opening Statement by Sponsor:

REP. BOHARSKI, HOUSE DISTRICT 4, stated that HB 197 is a clean up bill that was brought to him by the codes commissioner. He stated that he has some amendments that John MacMaster helped draft. EXHIBIT 1 The bill will read "The workers compensation judge may increase the full amount of a benefits due a claimant during the period of delay or refusal to pay." Rep. Boharski said that the difference from the way the bill was initially drafted, is that it had said that in a workers compensation case the judge could take the full amount of your benefits, multiply it by 20%. By dropping that amendment it is clarified in the bill for the lower courts.

Proponents' Testimony:

George Wood, Montana Self Insurers Association, stated he represents the employers in Montana who self insure their benefits. We rise to the support the bill as amended since it restates what the Supreme Court has said the section meant.

Nancy Butler, State Compensation Mutual Insurance Fund, stated they support the bill as amended. "Our initial concern was that time period to which the penalty applied be placed back in the bill and it is believed that is what the amendment does.

Oliver Goe, Montana Municipal Insurance Authority, stated they support the bill as amended.

Jan Van Riper, representing herself, stated she is in support of the bill except for one word. She said the word "compensation" appears before the word "benefit" throughout the bill. Since

there are two primary benefits of workers compensation, by using the word compensation, we will see some dispute as to whether or not the penalty provision applies to unreasonable delay in medical benefits. This committee could end run that dispute by taking the word "compensation" out.

Michael Sherwood, Montana Trial Lawyers Association, stated his Association supports this bill with the amendment that has been submitted by Rep. Boharski. Mr. Sherwood said further that the Trial Lawyers support the amendment outlined by Ms. Van Riper.

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked Ms. Van Riper if it would be better to strike compensation or to add compensation and medical benefits? Ms. Van Riper said she would rather the committee strike the word compensation.

Closing by Sponsor: none

EXECUTIVE ACTION ON HB #131

Motion: REP. BROOKE MOVED HB 131 DO PASS.

Motion: REP. BROOKE moved to amend HB 131 with the amendments from the sub-committee gray bill.

Discussion:

John MacMaster stated that the gray bill takes the original copy of the bill and put two different sets of amendments into it. These were wanted by various groups of people interested in the bill. In the gray bill, anything that is in all capital letters and underlines is material that the amendments serve. Also, anything that is struck through is material that the amendments delete in the bill.

REP. BROOKE stated in the testimony, that the medical examiner inserted amendments in the gray bill which primarily focus on defining burial sites a little more clearly and the relationship between the coroner and those finding any particular skeletal remains. She noted that Paul Johnson was present from the Attorney General's office and if the committee needed further clarifications on the intent of the sub-committee amendments he would answer any questions. She stated that the other set of amendments were worked through from the interest of the Montana Power Company and were agreed to by the drafters of the bill.

REP. BOHARSKI asked John MacMaster asked why section 13 hadn't changed much in regard to criminal penalties.

Motion/Vote: REP. TOOLE moved to amend HB 173 with the amendment stated by John MacMaster. Motion carried.

Motion/Vote: REP. TOOLE MOVED HB 173 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB #211

Motion/Vote: REP. GOULD MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #191

Motion/Vote: REP. MEASURE MOVED HB 191 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #221

Motion/Vote: REP. TOOLE MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #197

Motion: REP. BOHARSKI MOVED HB 197 DO PASS.

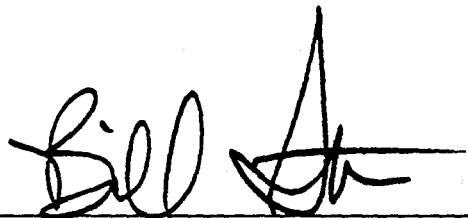
Motion/Vote: REP. BOHARSKI moved to amend HB 197. EXHIBIT 1 Motion carried.

Motion/Vote: REP. MEASURE moved to amend HB 197 with the amendment requested by Ms. Van Riper to drop the word "compensation" before benefits anywhere it appears in the bill. Motion carried.

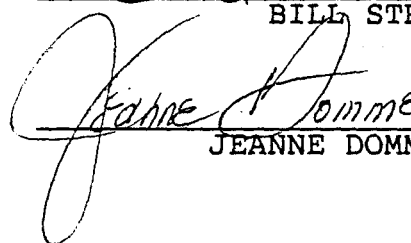
Motion/Vote: REP. RICE MOVED HB 197 DO PASS AS AMENDED. Motion carried.

ADJOURNMENT

Adjournment: 11 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE Jan 24, 1991

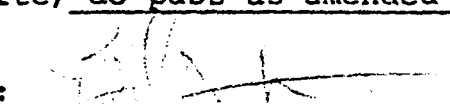
NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN			/
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN			/
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

January 24, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 197 (first reading copy -- white) do pass as amended.

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Page 1, line 19.
Following: "increase"
Insert: "by 20%"

2. Page 1, line 20.
Following: line 19
Strike: "a claimant's compensation"
Following: "benefits"
Strike: "by 20%"
Insert: "due a claimant during the period of delay or refusal to pay,"

3. Page 1, line 21.
Strike: "compensation"

4. Page 2, line 1.
Strike: "compensation"

Amendments to House Bill No. 197
First Reading Copy

Requested by Representative Boharski
For the Committee on Judiciary

Prepared by Greg Petesch and John MacMaster
January 22, 1991

1. Page 1, line 19.
Following: "increase"
Insert: "by 20%"

2. Page 1, line 20.
Following: line 19
Strike: "a claimant's compensation"
Following: "benefits"
Strike: "by 20%"
Insert: "due a claimant during the period of delay or refusal to
pay,"

3. Page 1, line 21.
Strike: "compensation"

4. Page 2, line 1.
Strike: "compensation"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB# 197

DATE 1-24-91

SPONSOR(S) Rep. Bohorski

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
GENE PHILLIPS	ALLIANCE OF AMERICAN INSURERS	X	
George Wood	MT SELF INSURERS ASS.	X Bundled	
Michael Sherwood	MTLA	X	
Jan Van Riper	self	X	
MARK LANGDOFF	AFSCME	X	
Okoo Co	MMIA	✓	
Nancy Butler	State Fund	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 12, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 297

Presentation and Opening Statement by Sponsor:

Representative Wilbur Spring, sponsor of the bill, stated that this bill was requested by Andy Bennett, commissioner of insurance. This bill is designed to promote the interests of Montana insurance consumers. It would do so by submitting the mid term cancellation of surplus items of surplus line insurance, and would reduce the cost of surplus line insurance. The bill would also make the Montana law consistent with the federal law. The inconsistencies between the Montana law and the federal law presents an enforcement problem for the Montana insurance department. If this bill were enacted into law, chances of abuse would be greatly reduced.

Proponents' Testimony:

Dave Barnhill, deputy insurance commissioner, spoke in favor of the bill (See Exhibit 1).

Questions From Committee Members:

Senator Noble asked how many bills the state auditor's office have had this session.

Robyn Young replied that this is the forth securities department bill.

David Barnhill replied that the insurance department sponsored seven bills in total.

Senator Gage asked what section 30-10-202 through 30-10-207 covers.

Robyn Young replied that those sections cover the registrations requirements for security. Sections 30-10-202 through 30-10-207 deal with registering the product.

Closing by Sponsor:

Representative Johnson closed by saying that Senator Doherty will carry the bill to the floor if it passes.

HEARING ON HOUSE BILL 197

Presentation and Opening Statement by Sponsor:

Representative William Boharski, sponsor of the bill, stated that this bill clarifies what some specific language is. This bill clarifies the two situations when a claimant is unfairly delayed in receiving his benefits. The first situation is where a worker's compensation judge makes a ruling that the claimant is entitled to benefits, then the insurance company delays payments benefits. The second situation is when an insurance company has accepted responsibility, and then on his own delayed payment benefits. The most important part of the bill is lines 18-21, page one of the bill. This states that the insurer is responsible for an additional twenty percent of the benefits that were owed during the period between whether he accepted responsibility, or was ruled to be at fault by the worker's compensation judge.

Proponents' Testimony:

Mike Sherwood, representing the Montana trial lawyer's association (MTLA), stated that this bill was initiated as a result of the code commissioner's concern over potential conflicts in the law.

George Wood, executive secretary for the Montana self insurer's association and speaking on behalf on Jacqueline Terrell of the American insurance association and Gene Phillips of the insurance alliance who could not attend the meeting. He stated that they are in support of the bill for the reasons stated.

Nancy Butler, general council for the state fund, stated that they support the bill as it was amended in the house.

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Boharski closed by asking Senator Thayer to carry the bill to the floor if it passes.

HEARING ON HOUSE BILL 411

Presentation and Opening Statement by Sponsor:

Representative Mike Kadas, sponsor of the bill, stated that this is an audit committee bill. It rises out of an audit committee exception where the department of revenue requires common carriers of beer, table wine, and cigarettes to file certain reports. They aren't filing those reports, because they don't need that information. They can get the information from other sources. This bill makes the filing of those reports permissive at the discretion of the department of revenue.

Proponents' Testimony:

John Northey, from the legislative auditor's office, stated that he would be able to answer any questions.

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Kadas closed by saying that Senator Jergeson will carry the bill to the floor.

HEARING ON HOUSE JOINT RESOLUTION 33

Presentation and Opening Statement by Sponsor:

Representative Sheila Rice, sponsor of the bill, stated that in Great Falls, Montana, they had a process called the vision two

Recommendation and Vote:

The motion made that HB 248 be concurred in passed unanimously. Senator Doherty will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 197

Motion:

Senator Thayer moved that HB 197 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made that HB 197 be concurred in passed unanimously. Senator Thayer will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 863

Motion:

Senator Thayer moved that a statement of intent be added to the bill.

Senator Noble moved the amendment proposed by Senator Tveit.

Senator Noble moved the amendment proposed by Mr. Barrett.

Senator Thayer moved to amend section C, changing "may" to "shall".

Senator Thayer moved that HB 863 be concurred in as amended.

Discussion:

Senator Lynch stated that a statement of intent is needed to take the small business capital company, and all of the local area development corporations have been after something like this for a long time. It possibly could infuse as much as forty eight million dollars into the loan program. They need to have the small business investment capital company in order to do it, other than the individuals.

Senator Thayer stated that we leave the rule making up to the department. That is the one thing that the legislature does wrong. It is an extra precaution that the legislature write its legislative intent in the bill. If their rules come out substantially different, then it is automatically applied. It

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/12/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	✓		
SENATOR FRANKLIN	✓		
SENATOR GAGE	✓		
SENATOR HAGER	✓		
SENATOR NOBLE	✓		
SENATOR THAYER	✓		
SENATOR WILLIAMS	✓		
SENATOR KENNEDY	✓		
SENATOR LYNCH	✓		

Each day attach to minutes.

COMMITTEE ON

DATE:

3/12/91

BUSINESS & INDUSTRY

VISITORS' REGISTER.

[illegible]

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 12 day of March, 1991.

Name: Jacqueline N. Surrall

Address: 10 Keller Row Firm
38 So. East Chance Gulch

Telephone Number: 442-0230

Representing whom? Am. Ins. Assoc.

Appearing on which proposal? HB 197

Do you: Support? yes Amend? Oppose?

Comments: support so long as no amendments

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 5/12/91 Bill No. HB197 Time 10 a.m.

NAME

YES

NO

SENATOR WILLIAMS

X

SENATOR THAYER

X

SENATOR NOBLE

X

SENATOR HAGER

X

SENATOR GAGE

X

SENATOR FRANKLIN

X

SENATOR BRUSKI

X

SENATOR KENNEDY

X

SENATOR LYNCH

X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN

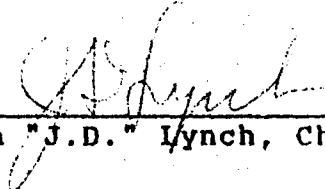
SN. THAYER TO CARRY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 12, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 197 (third reading copy -- blue), respectfully report that House Bill No. 197 be concurred in.

Signed: 
John "J.D." Lynch, Chairman

LB 3/12/91
Amd. Coord.

SB 3/12 1:00
Sec. of Senate

HOUSE BILL NO. 197
INTRODUCED BY BOHARSKI

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE PENALTY IMPOSED UPON INSURERS WHO UNREASONABLY DELAY PAYING WORKERS' COMPENSATION CLAIMS MAY BE IMPOSED WHEN AN INSURER ACCEPTS LIABILITY BUT UNREASONABLY DELAYS PAYING A CLAIM WHETHER OR NOT THE WORKERS' COMPENSATION COURT ORDERS PAYMENT OF THE CLAIM; APPLYING THE MONTANA SUPREME COURT'S DECISION IN HANDLOS V. CYPRUS, 47 ST. REP. 1329, 794 P.2D 702 (1990); AMENDING SECTION 39-71-2907, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-2907, MCA, is amended to read:

"39-71-2907. Increase in award for unreasonable delay or refusal to pay. (1) When payment of compensation has been ~~unreasonably delayed or refused by an insurer, either~~ The workers' compensation judge may increase BY 20% the full amount of a claimant's compensation benefits by--20% DUE A CLAIMANT DURING THE PERIOD OF DELAY OR REFUSAL TO PAY, when:

(a) the insurer agrees to pay compensation benefits but unreasonably delays or refuses to make the agreed-upon payments to the claimant; or

(b) prior or subsequent to the issuance of an order by

the workers' compensation judge granting a claimant compensation benefits, the ~~full amount of the compensation benefits due a claimant between the time compensation benefits were delayed or refused and the date of the order granting a claimant compensation benefits may be increased by the workers' compensation judge by--20% insurer~~ unreasonably delays or refuses to make the payments.

(2) The question of unreasonable delay or refusal shall be determined by the workers' compensation judge, and such a finding constitutes good cause to rescind, alter, or amend any order, decision, or award previously made in the cause for the purpose of making the increase provided herein.

(2)(3) A finding of unreasonableness under this section does not constitute a finding that the insurer acted in bad faith or violated the unfair trade practices provisions of Title 33, chapter 18."

NEW SECTION. **Section 2.** Applicability. [This act] applies to workers' compensation claims filed on or after October 1, 1991.

-End-

REFERENCE BILL